

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

RECEIVED

MAR 20 2017

AT 8:30 _____M
WILLIAM T. WALSH
CLERK

MONICA BIRCH-MIN, et al

Plaintiff,

v.

MIDDLESEX COUNTY BOARD
OF SOCIAL SERVICES, PLAINSBORO
POLICE DEPARTMENT, ADULT
PROTECTIVE SERVICES AND
DOES 1 through 100, inclusive

Defendants.

Civil No. 3:14-cv-00476-FLW-DEA

MOTION TO DISQUALIFY JUDGE

Movant, MONICA BIRCH-MIN plaintiff herein, respectfully moves pursuant to 28 United States Code §455 and 28 United States Code §144 for the disqualification of the Honorable Brian R. Martinotti from proceeding further in this action. As grounds for this motion, Movant alleges:

1. Movant fears, as set forth herein and in the attached affidavit, that she cannot and will not receive a fair trial in that Honorable Judge Martinotti has a bias and prejudice against her.
2. Movant's fear is well grounded in that, during the course of the hearing held on March 16, 2017 the Honorable Judge Martinotti made the following comments regarding Movant's case: "Ordered that Plaintiff's Second Amended Complaint is DISMISSED WITH PREJUDICE; and it is further ORDERED that this case is CLOSED.
3. A reasonable person faced with these comments would experience a well-grounded fear that he or she would not receive a fair hearing in front of a judge making such comments.

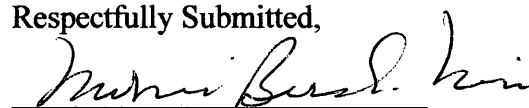
4. In addition, the Honorable Judge Martinotti states that no evidence was presented by the Plaintiff, however; some of the evidence is under seal. Furthermore, the Honorable Judge mentioned herein is new on the case and has no substantial knowledge of the case to make the Memorandum opinion.

5. The supporting affidavit of MONICA BIRCH-MIN is attached to and specifically incorporated into this motion by reference.

WHEREFORE, Movant respectfully requests the entry of an order of disqualification of the Honorable ^{MARTINOTTI} [name of judge] from proceeding further in this action.

Date: March 18, 2016

Respectfully Submitted,



Monica Birch-Min o/b/o Aung Min

801 N. Broad Street Apt 9-E

Elizabeth, NJ 07208-2570

609-423-4296

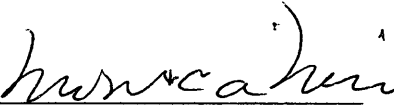
Plaintiffs Pro se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **MOTION TO DISQUALIFY JUDGE** was furnished by First Class U.S. Mail, Hand Delivery to the below mentioned on this 20, day of 03, 2017.

MICHAEL JOHN STONE, ESQ.
THE STONE LAW GROUP
20 Glenview Drive
Warren, New Jersey 07059
Attorney for Defendant Plainsboro Police Department

THOMAS E. DOWNS, IV, Staff Attorney
P.O. Box 509, 181 How Lane
New Brunswick, NJ 08903
Attorney for Defendant Middlesex County Board of Social Services

By: 
Monica Min

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MONICA BIRCH-MIN and
AUNG MIN

Plaintiff,

v.

MIDDLESEX COUNTY BOARD
OF SOCIAL SERVICES, PLAINSBORO
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Defendants.

Civil No. 3:14-cv-00476-FLW-DEA

**AFFIDAVIT OF MONICA BIRCH-MIN
IN SUPPORT OF MOTION TO
DISQUALIFY JUDGE FOR BIAS AND
PREJUDICE**

MONICA BIRCH-MIN, being first duly sworn, deposes and says:

1. I have personal knowledge of the facts set forth.
2. I am informed and believe, and based on such information and belief, allege that the Honorable Judge Brian R. Martinotti, the judge before whom this cause is pending, has personal bias or prejudice against me in favor of the Defendants.
3. This Judge has not at any time taken Judicial Notice as requested by the Plaintiff on February 24th, 2014 [Docket No.: 9] had the Judge taken Judicial Notice the public record shows that the Defendants case was Dismissed and Vacate in the Chancery Division of the Superior Court of New Jersey Case No.: 235478 for an alleged incapacitation of the Plaintiff's with no basis for Defendants claim.
4. This affidavit is submitted in support of the Plaintiffs Motion for Disqualification of Judge for Bias and Prejudice, for the purpose of showing that the Honorable Martinotti has bias and prejudice against me and by late husband because our issues and damages are genuine

and not meritless, therefore; the Plaintiff has exhausted all of her administrative remedies.

5. Defendants have not produced any evidence contrary to Plaintiff's.
6. A decision of dismissed with prejudice is a harsh determination and, therefore; I am at least entitled to a Third and final Amended Complaint
7. The facts and the reasons for the belief that such bias or prejudice exists are that me and my late-husband we are members of an elite society and the facts stated in this case show wrongfully behavior by a government entity and the Judge approves of unconstitutional acts and is attempting to rewrite the law in my case and creating a severe and callous deprivation of my rights. Finally, upon information and belief I believe that the above-mentioned judge and Court appear to be aiding and abetting with the Defendant.

I signed this affidavit on 3/20/17 at City of Elizabeth, County of Union, State of New Jersey.

Monica Birch-Min

Monica Birch-Min

SUBSCRIBED AND SWORN TO BEFORE ME on 3/20/17, 2016 at City of Linden State of New Jersey

[Notary's seal]

Paul Gerard Grzelak [notary's signature]

Paul Gerard Grzelak [typed name]

Notary Public in and for

the ~~Country~~ County of Union.

My commission expires 10/26/21 [date].

PAUL GERARD GRZELAK
Notary Public
State of New Jersey
My Commission Expires Oct. 26, 2021
I.D.# 2280625

